

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ralf WIDERA et al.

Conf. No.: 4000

Application No.: 10/507,179

Art Unit: 2454

Filed: February 25, 2005

Examiner: Wen-Tai Lin

For: METHOD FOR THE TRANSMISSION OF
MEASURED DATE FROM A MEASURING
COMPUTER TO A CONTROL COMPUTER IN
A MEASURING SYSTEM

APPELLANTS' REPLY BRIEF ON APPEAL UNDER 37 C.F.R. § 41.41

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellants submit this reply brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in response to the Examiner's Answer mailed March 29, 2010.

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is Deutsche Telekom AG. The inventors having assigned their rights in and to this application to Deutsche Telekom AG, such assignment having been duly recorded.

II. RELATED APPEALS AND INTERFERENCES

To appellants' knowledge, there are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

1. Claims canceled: 1-12, 16-17, 24-28 and 32;
2. Claims withdrawn from consideration but not canceled: none;
3. Claims pending: 13-15, 18-23 and 29-31;
4. Claims allowed: none;
5. Claims rejected: 13-15, 18-23 and 29-31.

IV. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1) Whether claims 13-15, 18-23 and 29-31 can properly be rejected as obvious under 35 U.S.C. § 103(a) based on a combination of U.S. Patent No. 6,847,613 to Mimura et al. ("Mimura") in view of the Examiner's statement of what was known in the art at the time of invention.

V. ARGUMENT

Grounds of Rejection No. 1: Obvious rejection of claims 13-15, 18-23 and 29-31 based on a combination of Mimura and the Examiner's Statement Of What Was Known in the Art at the Time of Invention

It is respectfully submitted that the combination of Mimura and the Examiner's statement of what was allegedly know in the art would not render claims 13-15, 18-23 and 29-31 obvious. Specifically, it is respectfully maintained that Mimura does not teach or suggest at least "combining the measured data into characteristic values having a lower volume than the measured data" and "associating the characteristic values with a time of the combining" as recited in independent claims 13 and 29.

In the Examiner's answer of March 29, 2010, the Office asserts that Mimura teaches "a reduction from multiple measured packet data to a single packet containing information illustrated in Fig. 7-11," and that the end time stamp, which marks the ending of the characteristic evaluation process, specifics a point of combining. See Examiner' Answer, page 4.

Contrary to the assertions in the Examiner's Answer, it is respectfully submitted that Mimura merely describes that a switch monitors a communication flow and detects the "Transmission Count (Packet, Byte) 76", the "Loss Count (Packet, Byte) 77," the "usage bandwidth 78 information," and the "time stamps 79" of the flow. See Mimura, column 12, lines 1-9. It appears that the Office is equating the process of collecting the statistics data as described in Mimura to the process of "combining the measured data into characteristic values having a lower volume than the measured data" as recited in claims 13 and 29. It is respectfully submitted that

there is a clear distinction between Mimura and the recited feature. Specifically, Mimura suggests that the “statistical items,” including the transmission count, the loss count, and the usage bandwidth, are directly measured from individual communication flows. See Mimura, column 6, line 59-column 7, line 10. In fact, Mimura suggests that, without performing any further processing or analysis, the edge packet switch gathers all statistics data from the upstream and sends a batch of statistics data on the communication flow to the meter reader. See Mimura, column 9, lines 8-19. That is, Mimura does not perform any operations on the statistics data before sending it to the meter reader. Therefore, Mimura does not teach or suggest “combining the measured data into characteristic values having a lower volume than the measured data” as recited in claims 13 and 29. Because Mimura fails to teach or suggest “combining the measured data into characteristic values having a lower volume than the measured data,” it cannot for this additional reason (beyond the arguments presented in Appellants’ Appeal Brief filed February 2, 2010) teach or suggest “associating the characteristic values with a time of the combining” as recited in claims 13 and 29.

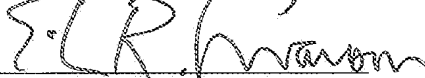
Nor does the Examiner’s statement of what was known in the art at the time of the invention teach or suggest the above-recited features of independent claims 13 and 29 missing from Mimura. Therefore, a combination of Mimura and the Examiner’s statement, to the extent proper, could not render independent claims 13 and 29, or their respective dependent claims, obvious.

CONCLUSION

For all of the reasons set forth above, the rejections of claims 13-15, 18-23 and 29-31 should be reversed. Appellants respectfully request that the rejections be withdrawn, and the case passed to allowance.

Dated: May 28, 2010

Respectfully submitted,

By 

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APPENDIXES

CLAIMS APPENDIX

The following is a copy of the claims involved in the appeal:

Claims 1-12 (Canceled)

Claim 13 (Previously Presented): A method for transmitting measured information from a measuring computer to a control computer of a measuring system, the measuring computer and the control computer being interconnected via a telecommunications network, the method comprising:

transmitting a plurality of measurement packets to the measuring computer so as to provide measured data including a plurality of respective one-way delay measurements;

combining the measured data into characteristic values having a lower volume than the measured data, the characteristic values including at least one of a mean one-way delay, a maximum one-way delay, and minimum one-way delay, a standard deviation of a one-way delay, a mean IP delay variation, a maximum IP delay variation, a standard deviation of an IP delay variation, a packet loss, and a packet throughput over a time interval;

associating the characteristic values with a time of the combining; and

transmitting the characteristic values from the measuring computer to the control computer.

Claim 14 (Previously Presented): The method as recited in claim 13 wherein the telecommunications network includes at least one of an internet and an intranet.

Claim 15 (Previously Presented): The method as recited in claim 13 wherein the measured data includes a plurality of measurement parameters, and wherein the combining is performed according to the respective measurement parameters.

Claim 16-17 (Canceled)

Claim 18 (Previously Presented): The method as recited in claim 13 further comprising determining the time interval as a function of a measuring method.

Claim 19 (Previously Presented): The method as recited in claim 13 wherein the measuring system includes a second measuring computer and wherein measurement packets are transmitted between measuring computer and the second measuring computer.

Claim 20 (Previously Presented): The method as recited in claim 19 wherein the measurement packets include User Datagram Protocol measurement packets.

Claim 21 (Previously Presented): The method as recited in claim 19 wherein the characteristic values include a sum of all packets lost and a maximum of all successively occurring packet losses, and

further comprising determining the sum of all packets lost and the maximum of all successively occurring packet losses during a detection of measurement packet losses in a time interval.

Claim 22 (Previously Presented): The method as recited in claim 19 wherein the measured data includes unidirectional transmission characteristics.

Claim 23 (Previously Presented): The method as recited in claim 19 wherein the combining and transmitting are performed using the measuring computer, and wherein the measuring computer functions as a receiver and the second measuring computer functions as a sender.

Claim 24-28 (Cancelled)

Claim 29 (Previously Presented): A measuring system comprising:
a control computer; and

a measuring computer interconnected with the control computer via a telecommunications network, the measuring computer being configured to:

transmitting a plurality of measurement packets to the measuring computer so as to provide measured data including a plurality of respective one-way delay measurements;

combining the measured data into characteristic values having a lower volume than the measured data, the characteristic values including at least one of a mean one-way delay, a maximum one-way delay, and minimum one-way delay, a standard deviation of a one-way delay, a mean IP delay variation, a maximum IP delay variation, a standard deviation of an IP delay variation, a packet loss, and a packet throughput over a time interval;

associate the characteristic values with a time of the combining; and

transmit the characteristic values to the control computer.

Claim 30 (Previously Presented): The measuring system as recited in claim 29 wherein the telecommunications network includes at least one of an internet and an intranet.

Claim 31 (Previously Presented): The measuring system as recited in claim 29 wherein the measured data includes a plurality of measurement parameters, and wherein the combining is performed according to the respective measurement parameters.

Claim 32 (Canceled)

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings for this matter.